

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

PRECISION HEALTH GROUP,)	
on behalf of itself and the class members)	
defined herein,)	
)	
)	
Plaintiff,)	
)	
v.)	Cause No.
)	
MDINR LLC d/b/a MDINR)	JURY TRIAL DEMANDED
)	
)	
Defendant.)	

NOTICE OF REMOVAL

NOW COMES the Defendant, MDINR, LLC (“Defendant”), by its attorneys, Heather A. Bub, Molly A. Arranz, John C. Ochoa, of SmithAmundsen LLC, and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, removes this action to the United States District Court for the Eastern District of Missouri, Eastern Division, and in support thereof, states as follows:

THE STATE COURT ACTION

1. The Defendant’s Notice of Removal is based upon subject matter jurisdiction conferred by federal question as established in 28 U.S.C. § 1331.
2. The Plaintiff filed its Complaint on March 28, 2022 in the St. Louis County, Missouri Circuit Court in the civil action styled *Precision Health Group v. MDINR LLC d/b/a MDINR*, bearing Case No. 22SL-CC01943 (the “State Court Action”). A copy of the Complaint, summons, and all other process served on Defendant in the State Court Action is attached hereto as **Exhibit A** pursuant to 28 U.S.C. § 1446(a).¹

¹ Defendant was not served with Exhibits 1 and 2 referenced in the Complaint—accordingly, Exhibits 1 and 2 provided for in Exhibit A were those sent by Plaintiff’s counsel on or about March 16, 2022.

3. Plaintiff's Complaint arises out of the alleged sending of an unsolicited facsimile advertisement, and brings a single count: alleging a violation of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, *et seq.*

4. Service was achieved on Defendant on April 8, 2022. (*See* Service of Process Summary Transmittal Forms attached as **Exhibit B.**)

5. Defendant has not entered its appearance, filed a responsive pleading, or otherwise responded to Plaintiff's Complaint in the State Court Action.

6. This Notice is filed within (30) thirty days of "the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

FEDERAL QUESTION JURISDICTION

7. This Court has original jurisdiction over Plaintiff's Complaint pursuant to 28 U.S.C. § 1331 because the Complaint asserts claims under the TCPA, which "arises under the Constitution, laws, or treaties of the United States." *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 742 (2012). (*See* Compl. ¶¶ 7, 19, 23, 37.)

8. Venue is proper because the Circuit Court of St. Louis County, Missouri is within the United States District Court for the Eastern District of Missouri, Eastern Division. *See* 28 U.S.C. § 105 and 1446(a). Plaintiff alleges that it is a Missouri corporation with an office in St. Louis County, and that the alleged statutory violations occurred within St. Louis County, *i.e.*, this District. (*See* Compl. ¶¶ 1, 6, 8.) Venue for this removal is therefore proper. 28 U.S.C. § 1441(a); *see also* 28 U.S.C. § 105(a)(1) (stating this Court encompasses Saint Louis County).

9. Defendant serves this Notice of Removal within 30 days after being served with process in the State Court Action on April 8, 2022. *See* Exhibit B. This removal is therefore timely. 28 U.S.C. § 1446(b).

10. As required by 28 U.S.C. § 1446(d), the Defendant will promptly serve upon plaintiff's counsel and file with the St. Louis County Circuit Court a true and correct copy of this Notice of Removal.

WRITTEN NOTICE OF REMOVAL HAS BEEN GIVEN TO PLAINTIFF

11. Pursuant to 28 U.S.C. § 1446(d), Defendant has given written notice of the filing of this Notice of Removal to Plaintiff and is filing a copy of this Notice of Removal with the Clerk of the Circuit Court of St. Louis County, Missouri. A copy of the Notice to State Court of Notice of Removal filed in the Circuit Court of St. Louis County, Missouri, is attached hereto as **Exhibit C**, in accordance with Local Rule 2.03, including a copy of the state court's docket sheet.

12. By removing this action, the Defendant does not waive any defenses available to it, including but not limited to the defense that this Court lacks personal jurisdiction over the claims of the putative class members who are not yet properly before this Court. A copy of the Notice to State Court of Notice of Removal bearing the file stamp of the Clerk of the Circuit Court of St. Louis County, Missouri will be filed in this Court via ECF upon Defendant's receipt of same.

13. Pursuant to Local Rules 2.02, an Original Filing Form and Civil Cover Sheet are attached as **Exhibits D** and **E**, respectively.

14. Pursuant to Local Rule 2.04, "Jury Trial Demanded" is written on the face of the Notice of Removal as Defendant requests a jury trial.

WHEREFORE, notice is hereby given that this action is removed from the St. Louis County, Missouri Circuit Court, to the United States District Court for the Eastern District of Missouri, Eastern Division.

Respectfully Submitted,
SmithAmundsen LLC

/s/ Heather A. Bub

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Attorneys for Defendant MDINR LCC
d/b/a/ MDINR

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 6, 2022, she caused a copy of the attached **Notice of Removal** to be served upon the following counsel of record via e-mail and First Class Mail:

Ronald J. Eisenberg
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/s/ Heather A. Bub